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September 3, 1953

Attorney General

William E. Watson
Assistant Attorney General

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SEP 03 1998

CONCORD, N.H.

Mr. William E. Chandler, Secretary
State Tax Commission
Concord, N.H.

Dear Mr. Chandler:

Mr. Ryan has directed me to reply to your letter of August 28, 1953 in which you inquire concerning the disposition of an unexpended cash balance of a school district. Your inquiry relates to the determination of the annual school tax.

You point out that the articles in the school district warrant are as follows:

Article: " And what disposition the district will vote to make of any unexpended balance in the hands of the district at the close of the current school year not already declared or otherwise provided for.

Section: "We was voted to apply \$2000 of any unexpended balance in the hands of the district at the close of the current school year for the use and improvement of lighting facilities at the Elementary School Building and any further balance not already declared or otherwise provided for to be used for any unforeseen contingencies."

In these circumstances you inquire as to the proper disposition of so much of the unexpended balance as exceeds \$2000. We state as our opinion that such portion must be carried forward as a credit and applied to the balance of the ensuing year.

Paraphrastically, we take it from the facts, that the \$2000 is in fact unexpended with respect to the lighting facilities.

Funds are appropriated by school districts for the use of the school board in carrying out its statutory duties upon an annual basis. N. H. L. C.

C O P Y

Mr. Horton E. Gardner

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R. L. c. 1, 4. Consequently, school budgets are determined upon a yearly basis. R. L. c. 130, s. 4; see also R. L. c. 52.

Monies thus appropriated may be paid out by the board for all proper purposes as directed by statute or as legally authorized by the district in its meeting. Legal authorization on the part of the district is limited to the support of the schools during "the fiscal year beginning July first, next succeeding" (R. L. c. 130, s. 1) or, as alternatively stated, during "the ensuing fiscal year." In short, then, as otherwise provided, the district cannot legally authorize the expenditure of school money in another year than that in respect to which the meeting is held and action taken. The only provision providing otherwise is that relating to the capital reserve act (R. L. c. 130), which act is not applicable to this matter.

In these circumstances, an unnumbered cash balance from a previous year becomes in the ensuing year a part of the general mass of the property of the school district. Like all such property, it must be devoted to school purposes. No provision of law authorizing otherwise, this can only be done by applying it as a monetary asset on hand -- in other words, as a credit with respect to the budget for the ensuing year. One effect of such procedure will be to reduce the amount to be raised by taxation in each year.

Very truly yours,

Horton E. Gardner
Assistant Attorney General

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